

**STATE OF WISCONSIN****CIRCUIT COURT****WALWORTH**

Mark E. Jernstad et al vs. Home Depo U.S.A., Inc. et al

**Electronic Filing  
Notice**

Case No. 2021CV000298

Class Code: Other-Personal Injury

**FILED****06-21-2021****Walworth County****Clerk of Circuit Court****2021CV000298****Honorable David M. Reddy****Branch 4**

OLD REPUBLIC INSURANCE COMPANY  
631 EXCEL DRIVE  
SUITE 200  
MOUNT PLEASANT PA 15666

Case number 2021CV000298 was electronically filed with/converted by the Walworth County Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases.

Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. Electronic parties are responsible for serving non-electronic parties by traditional means.

You may also register as an electronic party by following the instructions found at **<http://efiling.wicourts.gov/>** and may withdraw as an electronic party at any time. There is a \$20.00 fee to register as an electronic party. This fee may be waived if you file a Petition for Waiver of Fees and Costs Affidavit of Indigency (CV-410A) and the court finds you are indigent under §814.29, Wisconsin Statutes.

If you are not represented by an attorney and would like to register an electronic party, you will need to enter the following code on the eFiling website while opting in as an electronic party.

**Pro Se opt-in code: d22148**

Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Registration is available to attorneys, self-represented individuals, and filing agents who are authorized under Wis. Stat. 799.06(2). A user must register as an individual, not as a law firm, agency, corporation, or other group. Non-attorney individuals representing the interests of a business, such as garnishees, must file by traditional means or through an attorney or filing agent. More information about who may participate in electronic filing is found on the court website.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 262-741-7012.

Walworth County Circuit Court  
Date: June 21, 2021

**STATE OF WISCONSIN****CIRCUIT COURT****WALWORTH**

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LIBERTY MUTUAL INSURANCE COMPANY  
175 BERKELEY STREET  
BOSTON MA 02116

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ANDERSON CORPORATION  
100 FOURTH STREET  
BAYPORT MN 55003

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HOME DEPO U.S.A., INC.  
2455 PACES FERRY ROAD  
ATLANTA GA 30339

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2455 PACES FERRY ROAD  
ATLANTA GA 30339

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STATE OF WISCONSIN    CIRCUIT COURT    WALWORTH COUNTY

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MARK E. JERNSTAD  
204 West Main Street  
Yorkville, Illinois 60560,

Plaintiff,

OLD REPUBLIC INSURANCE  
COMPANY  
631 Excel Drive, Suite 200  
Mount Pleasant, Pennsylvania 15666,

LIBERTY MUTUAL INSURANCE  
COMPANY  
175 Berkeley Street  
Boston, Massachusetts 02116,

ANDERSEN CORPORATION  
100 Fourth Street  
Bayport, Minnesota 55003,

Involuntary Plaintiffs,

v.

HOME DEPOT U.S.A., INC.  
2455 Paces Ferry Road  
Atlanta, Georgia 30339,

THE HOME DEPOT, INC.  
2455 Paces Ferry Road  
Atlanta, Georgia 30339,

Defendants.

Case Number:  
Case Code: 30107  
Personal Injury – Other  
Amount Claimed Greater  
Than \$5,000

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CIVIL SUMMONS

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**THE STATE OF WISCONSIN TO:** The Named Defendant.

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is served upon you, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this Summons, you must respond with a written Answer, is used in Wis. Stat. Ch. 802, to the Complaint. The Court may reject or disregard an Answer that does not follow the requirements of the statutes. The Answer must be sent or delivered to:

Clerk of Courts  
Walworth County Judicial Center  
1800 County Road NN  
Elkhorn, Wisconsin 53121

and to the Plaintiff's attorneys:

Robert J. Domol  
Hupy and Abraham, S.C.  
2830 Ramada Way  
Suite 100  
Green Bay, Wisconsin 54304

You may have an attorney help or represent you.

If you do not provide a proper Answer within forty-five (45) days, the Court may grant Judgment against you for the award of money or other legal action requested in the Complaint. A Judgment may be enforced as provided by law. A Judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

**DATED** at Green Bay, Wisconsin, this 21 day of JUNE, 2021.

HUPY AND ABRAHAM, S.C.  
Attorneys for the Plaintiff,

By: 

Robert J. Dornol  
State Bar Number: 1091411

Post Office Address

2830 Ramada Way  
Suite 100  
Green Bay, Wisconsin 54304  
(920) 593-5050



FILED  
06-21-2021  
Walworth County  
Clerk of Circuit Court  
2021CV000298  
Honorable David M. Reddy  
Branch 4

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STATE OF WISCONSIN    CIRCUIT COURT    WALWORTH COUNTY

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MARK E. JERNSTAD  
204 West Main Street  
Yorkville, Illinois 60560,

Plaintiff,

OLD REPUBLIC INSURANCE  
COMPANY  
631 Excel Drive, Suite 200  
Mount Pleasant, Pennsylvania 15666,

LIBERTY MUTUAL INSURANCE  
COMPANY  
175 Berkeley Street  
Boston, Massachusetts 02116,

ANDERSEN CORPORATION  
100 Fourth Street  
Bayport, Minnesota 55003,

Involuntary Plaintiffs,

v.

HOME DEPOT U.S.A., INC.  
2455 Paces Ferry Road  
Atlanta, Georgia 30339,

THE HOME DEPOT, INC.  
2455 Paces Ferry Road  
Atlanta, Georgia 30339,

Defendants.

Case Number:  
Case Code: 30107  
Personal Injury – Other  
Amount Claimed Greater  
Than \$5,000

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**CIVIL COMPLAINT**

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**NOW COMES** the Plaintiff, Mark E. Jernstad, by and through his attorneys, Hupy and Abraham, S.C., by Robert J. Domol, and as for his Complaint against the Defendants, alleges and shows to the Court as follows:

1. The Plaintiff, Mark E. Jernstad, is an adult resident of the City of Yorkville, County of Kendall, Illinois, currently residing at 204 West Main Street, Zip Code 60560.

2. The Involuntary Plaintiff, Old Republic Insurance Company, is a foreign insurance company, organized and existing under the laws of Pennsylvania, with its principal place of business located at 631 Excel Drive, Suite 200, Mount Pleasant, Pennsylvania, Zip Code 15666; that the registered agent for the Involuntary Plaintiff, Old Republic Insurance Company, is Alan Pavlic, located at 445 South Moorland Road, Suite 301, Brookfield, Wisconsin, Zip Code 53005; and that the Involuntary Plaintiff, Old Republic Insurance Company, alleges to have paid out worker's compensation benefits on behalf of the Plaintiff, Mark E. Jernstad, and is therefore named as an alleged subrogated party in this action pursuant to Wis. Stat. § 803.03.

3. The Involuntary Plaintiff, Old Republic Insurance Company, is entitled to recovery and reimbursement pursuant to Wis. Stat. § 102.29.

4. That the Involuntary Plaintiff, Liberty Mutual Insurance Company, is a foreign insurance company, organized and existing under the laws of Massachusetts, with its principal place of business located at 175 Berkeley Street, Boston, Massachusetts, Zip Code 02116; that the registered agent in Wisconsin for the Involuntary Plaintiff, Liberty Mutual Insurance Company, is Corporation Service Company, located at 8040 Excelsior Drive, Suite 400, Madison, Wisconsin, Zip Code 53717; and that the Involuntary Plaintiff, Liberty Mutual Insurance Company, alleges to

have paid out worker's compensation benefits on behalf of the Plaintiff, Mark E. Jernstad, and is therefore named as an alleged subrogated party in this action pursuant to Wis. Stat. § 803.03.

5. The Involuntary Plaintiff, Liberty Mutual Insurance Company, is entitled to recovery and reimbursement pursuant to Wis. Stat. § 102.29.

6. The Involuntary Plaintiff, Andersen Corporation, is a foreign corporation, organized and existing under the laws of Minnesota, with its principal place of business located at 100 Fourth Street, Bayport, Minnesota, Zip Code 55003; that the registered agent in Wisconsin for the Involuntary Plaintiff, Andersen Corporation, is CT Corporation, located at 8020 Excelsior Drive, Suite 200, Madison, Wisconsin, Zip Code 53717; and that the Involuntary Plaintiff, Andersen Corporation, alleges to have paid out worker's compensation benefits on behalf of the Plaintiff, Mark E. Jernstad, and is therefore named as an alleged subrogated party in this action pursuant to Wis. Stat. § 803.03.

7. The Involuntary Plaintiff, Andersen Corporation, is entitled to recovery and reimbursement pursuant to Wis. Stat. § 102.29.

8. The Defendant, Home Depot U.S.A., Inc., is a foreign corporation, organized and existing under the laws of Delaware, with the principal place of business located at 2455 Paces Ferry Road, Atlanta, Georgia, Zip Code 30339; that the registered agent in Wisconsin for the Defendant, Home Depot U.S.A., Inc., is Corporation Service Company, located at 8040 Excelsior Drive, Madison, Wisconsin, Zip Code 53717; that the Defendant, Home Depot U.S.A., Inc., is self-insured; and that the Defendant, Home Depot U.S.A., Inc., owned, operated, and/or maintained the property located at 550 North Edwards Boulevard, Lake Geneva, Wisconsin, Zip Code 53147.

9. The Defendant, The Home Depot, Inc., is a foreign corporation, organized and existing under the laws of Delaware, with the principal place of business located at 2455 Paces Ferry Road, Atlanta, Georgia, Zip Code 30339; that the registered agent in Wisconsin for the Defendant, The Home Depot, Inc., is Corporation Service Company, located at 8040 Excelsior Drive, Madison, Wisconsin, Zip Code 53717; that the Defendant, The Home Depot, Inc., is self-insured; and that the Defendant, The Home Depot, Inc., owned, operated and/or maintained the property located at 550 North Edwards Boulevard, Lake Geneva, Wisconsin, Zip Code 53147.

**FIRST CAUSE OF ACTION: GENERAL NEGLIGENCE**

10. On July 26, 2018, the Plaintiff, Mark E. Jernstad, was an invitee on the property located at 550 North Edwards Boulevard, Lake Geneva, Wisconsin, Zip Code 53147; and that while the Plaintiff, Mark E. Jernstad, was on said property, he tripped over negligently placed boards in the shipping dock and suffered injuries and damages as hereafter described.

11. The Defendant, Home Depot U.S.A., Inc., owned, operated, and/or maintained the property located at 550 North Edwards Boulevard, Lake Geneva, Wisconsin, Zip Code 53147, at the time of the accident; and that the Defendant, Home Depot U.S.A., Inc., failed to properly warn patrons, and/or otherwise failed to exercise ordinary care in maintaining and/or managing the property, by failing to maintain a clear path to and from the shipping dock on the property, and/or otherwise failed to exercise ordinary care with respect to the property by failing to maintain the subject path in the shipping dock, creating an unsafe condition which created an unreasonable risk of harm to the Plaintiff, Mark E. Jernstad.

12. The foregoing acts of negligence on the part of the Defendant, Home Depot U.S.A., Inc., were a direct and proximate cause of the injuries and damages sustained by the Plaintiff, Mark E. Jernstad.

13. The Defendant, The Home Depot, Inc., owned, operated and/or maintained the property located at 550 North Edwards Boulevard, Lake Geneva, Wisconsin, Zip Code 53147, at the time of the accident; and that the Defendant, The Home Depot, Inc., failed to properly warn patrons and/or otherwise failed to exercise ordinary care in maintaining and/or managing the property, by failing to maintain a clear path to and from the shipping dock on the property, and/or otherwise failed to exercise ordinary care with respect to the property by failing to maintain the subject path in the shipping dock, creating an unsafe condition which created an unreasonable risk of harm to the Plaintiff, Mark E. Jernstad.

14. The foregoing acts of negligence on the part of the Defendant, The Home Depot, Inc., were a direct and proximate cause of the injuries and damages sustained by the Plaintiff, Mark E. Jernstad.

15. As a result of the foregoing acts of negligence on the part of the Defendants, Home Depot U.S.A., Inc., and The Home Depot, Inc., the Plaintiff, Mark E. Jernstad, sustained injuries to his body and suffered emotional distress; that he suffered pain and may continue to suffer pain for an indefinite time in the future; that he was required to seek medical attention; that he may be required to seek additional and continued medical attention in the future and to expend large sums of money for said medical attention; that he was unable to maintain his employment for a period of time and may continue to be so restricted; and that he was unable to engage in his normal activities for a period of time, and may continue to be so restricted, all to his damage.

## **SECOND CAUSE OF ACTION: SAFE PLACE PURSUANT TO WIS. STAT. § 101.11**

As for the second cause of action, the Plaintiff, Mark E. Jernstad, repeats and re-alleges all of the allegations contained previously herein, incorporates the same by reference and further alleges and shows to the Court as follows:

16. The Plaintiff, Mark E. Jernstad, at all times material hereto, was an employee, frequenter, and/or invitee as those terms are defined in Wis. Stat. § 101.01 at the property located at 550 North Edwards Boulevard, Lake Geneva, Wisconsin, Zip Code 53147, where he was injured.

17. At all times material hereto, the property where the Plaintiff, Mark E. Jernstad, was injured was a public building/property and/or place of employment as those terms are defined in Wis. Stat. § 101.01.

18. With respect to the subject property, the Defendant, Home Depot U.S.A., Inc., contrary to Wis. Stat. § 101.11, were negligent in that it:

- a. Failed to furnish a place for employees, frequenters, and/or invitees, which was safe, as that term is defined in Wis. Stat. § 101.01;
- b. Failed to furnish and use safety devices and safeguards and failed to adopt and use methods and processes reasonably adequate to render the subject property safe, as that term is defined in Wis. Stat. § 101.01;
- c. Failed to do every other thing reasonably necessary to protect the life, health, safety, and welfare of employees, invitees, and/or frequenters at the subject property where the Plaintiff, Mark E. Jernstad, was injured; and
- d. Failed to properly inspect, maintain, repair, safeguard, and/or warn so as to render the subject property safe, as those terms are defined in Wis. Stat. § 101.01.
- e. Failed to ensure that trip hazards were warned of and/or corrected.

19. The foregoing acts of negligence on the part of the Defendant, Home Depot U.S.A., Inc., were a direct and proximate cause of the injuries and damages sustained by the Plaintiff, Mark E. Jernstad.

20. With respect to the subject property, the Defendant, The Home Depot, Inc., contrary to Wis. Stat. § 101.11, were negligent in that it:

- a. Failed to furnish a place for employees, frequenters, and/or invitees, which was safe, as that term is defined in Wis. Stat. § 101.01;
- b. Failed to furnish and use safety devices and safeguards and failed to adopt and use methods and processes reasonably adequate to render the subject property safe, as that term is defined in Wis. Stat. § 101.01;
- c. Failed to do every other thing reasonably necessary to protect the life, health, safety, and welfare of employees, invitees, and/or frequenters at the subject property where the Plaintiff, Mark E. Jernstad, was injured; and
- d. Failed to properly inspect, maintain, repair, safeguard, and/or warn so as to render the subject property safe, as those terms are defined in Wis. Stat. § 101.01.
- e. Failed to ensure that trip hazards were warned of and/or corrected.

21. The foregoing acts of negligence on the part of the Defendant, The Home Depot, Inc., were a direct and proximate cause of the injuries and damages sustained by the Plaintiff, Mark E. Jernstad.

22. As a result of the foregoing acts of negligence on the part of the Defendants, Home Depot U.S.A., Inc., and The Home Depot, Inc., the Plaintiff, Mark E. Jernstad, sustained injuries to his body and suffered emotional distress; that he has suffered pain and may continue to suffer pain for an indefinite time in the future; that he was required to seek medical attention; that he may be required to seek additional and continued medical attention in the future and to expend large sums of money for said medical attention; that he was unable to maintain his employment for a period of time and may continue to be so restricted; and that he was unable to engage in his normal activities for a period of time, and may continue to be so restricted, all to his damage.

**WHEREFORE**, the Plaintiff, Mark E. Jernstad, demands Judgment against the Defendants in the following forms: for compensatory damages as the Court may deem just and equitable, together with costs and disbursements of this action, reasonable attorney's fees associated with this action, for all interest due and owing pursuant to Wis. Stat. § 628.46, and for dismissal of any and all subrogation or reimbursement claims in this matter, and any further relief the Court may deem just and equitable.

**JURY DEMAND**

**PLEASE TAKE NOTICE** that the Plaintiff in the above-entitled action hereby demands trial by a jury of 12 persons.

**DATED** at Green Bay, Wisconsin, this 21 day of JUNE, 2021.

HUPY AND ABRAHAM, S.C.  
Attorneys for the Plaintiff,

By: \_\_\_\_\_

Robert J. Domol  
State Bar Number: 1091411

Post Office Address  
2830 Ramada Way  
Suite 100  
Green Bay, Wisconsin 54304  
(920) 593-5050



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Status Change**Case No: 2021CV000298

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SUITE 200  
631 EXCEL DRIVE  
MOUNT PLEASANT PA 15666

For 2021CV000298, the electronic notice preference for Michael John Nemo, Wisconsin attorney for Anderson Corporation, has changed.

Michael John Nemo has registered as an electronic notice party and has agreed to file any documents and receive all communications from the court for this case electronically. You will no longer need to provide traditional paper documents to this party. You still need to provide traditional paper documents to the court and any other parties who are not electronically filing.

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175 BERKELEY STREET  
BOSTON MA 02116

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HOME DEPOT U.S.A., INC.  
2455 PACES FERRY ROAD  
ATLANTA GA 30339

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**Walworth County**  
**Clerk of Circuit Court**  
**2021CV000298**

STATE OF WISCONSIN

CIRCUIT COURT  
Branch 4

WALWORTH COUNTY

MARK E. JERNSTAD,

Plaintiff,

and

OLD REPUBLIC INSURANCE COMPANY,  
LIBERTY MUTUAL INSURANCE  
COMPANY and ANDERSEN CORPORATION,

Involuntary Plaintiffs,

vs.

HOME DEPOT U.S.A., INC., and  
THE HOME DEPOT, INC.,

Defendants.

Case Type Code: 30107

Case No.: 21-CV-298

Honorable David M. Reddy

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**NOTICE OF APPEARANCE**

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**PLEASE TAKE NOTICE** that attorney Michael J. Nemo hereby enters his appearance as counsel of record for Involuntary Plaintiff Andersen Corporation in the above-entitled action and requests that copies of all pleadings and other documents filed with the Court in this matter be served upon us at our offices located at:

ARTHUR, CHAPMAN, KETTERING,  
SMETAK & PIKALA, P.A.  
Attn: Michael J. Nemo (#1054209)  
500 Young Quinlan Building  
81 South Ninth Street  
Minneapolis MN 55402-3214  
(612) 339-3500

Dated this 21st day of July, 2021.

BY: /s/ Michael J. Nemo

Michael J. Nemo

State Bar No.: 1054209

**STATE OF WISCONSIN****CIRCUIT COURT****WALWORTH COUNTY**

Mark E. Jernstad et al vs. Home Depot U.S.A., Inc. et al

**Electronic Notice  
Status Change**Case No: 2021CV000298

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OLD REPUBLIC INSURANCE COMPANY  
SUITE 200  
631 EXCEL DRIVE  
MOUNT PLEASANT PA 15666

For 2021CV000298, the electronic notice preference for Sarah Thomas Pagels, Wisconsin attorney for Home Depot U.S.A., Inc. and The Home Depot, Inc., has changed.

Sarah Thomas Pagels has registered as an electronic notice party and has agreed to file any documents and receive all communications from the court for this case electronically. You will no longer need to provide traditional paper documents to this party. You still need to provide traditional paper documents to the court and any other parties who are not electronically filing.

If you have any questions regarding this notice, please contact our office at 262-741-7012.

Walworth County Circuit Court  
Date: July 29, 2021

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Mark E. Jernstad et al vs. Home Depot U.S.A., Inc. et al

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LIBERTY MUTUAL INSURANCE COMPANY  
175 BERKELEY STREET  
BOSTON MA 02116

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Walworth County Circuit Court  
Date: July 29, 2021

**FILED**  
**07-29-2021**  
**Walworth County**  
**Clerk of Circuit Court**  
**2021CV000298**

STATE OF WISCONSIN

CIRCUIT COURT

WALWORTH COUNTY

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MARK E. JERNSTAD,

Plaintiff,

Case No. 21-CV-298

and

Case Code: 30107

OLD REPUBLIC INSURANCE COMPANY, et al.,

Involuntary Plaintiffs,

v.

HOME DEPOT U.S.A., INC., et al.,

Defendants.

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**NOTICE OF APPEARANCE**

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PLEASE TAKE NOTICE that Sarah Thomas Pagels hereby appears in this matter as counsel for Defendants Home Depot U.S.A., Inc. and The Home Depot, Inc. and further requests that all further notices and copies of pleadings, papers, and other materials relevant to this action be directed and served upon her via the Wisconsin Circuit Court electronic filing system, with correspondence, written discovery, and other documents not filed with the Court to be served upon her at the address below.

Dated this 29th day of July, 2021.

LAFHEY, LEITNER & GOODE LLC  
Attorneys for DefendantsBy: s/ Sarah Thomas Pagels  
Sarah Thomas Pagels  
State Bar No. 1062162

P.O. ADDRESS:  
325 E. Chicago Street, Suite 200  
Milwaukee, WI 53202  
(414) 312-7003  
(414) 755-7089 (fax)  
stpagels@llgmke.com